

26. The apparatus of claim 24 in which the first and second arms of the holding element are spring arms.

27. The apparatus of claim 24 in which the first and second arms are fixed, and the holding element further includes a strap for securing the spray paint can to the first and second arms.

28. The apparatus of claim 24 in which the first and second arms are fixed, and the holding element further includes a first magnet secured to the first arm and a second magnet secured to the second arm for securing the spray paint can to the first and second arms.

REMARKS

Reconsideration of this application is respectfully requested.

The 35 U.S.C. § 112 rejection has been duly noted and the affected claims have been rewritten to overcome the rejection.

However, it is respectfully suggested that the term "relatively low RPM" is very specifically defined in the specification. The definition is now included in claims 1 and 9.

The rejection based on the Roepke patent is respectfully traversed. The Roepke structure does not rotate a can, but oscillates a can. There is a substantial difference between oscillation and rotation.

Furthermore, the use of a hand drill would not be able to rotate a can at the relatively low RPM specified in the specification and claims.

Moreover, the Roepke structure does not include the structural limitations set forth in independent claims 1 and 9. Roepke does not include, for example, a panel extending upward from a base, and another connected to the panel for rotating the can.

Finally, the holding element of Roepke is defined and claimed as a C-shaped bracket, and thus does not meet the structural limitations of a base and two extended arms as clearly defined in the present specification and illustrated in the drawing Figures.

The rejection on the Rosenblatt reference is also respectfully traversed. The difference in the RPM of the Rosenblatt reference and the present apparatus has been noted by the Examiner. However, it is noted that the purpose of the Rosenblatt structure is for rotating insulin, not paint. It is noted that Roepke, Sterrenberg, and Blume references are all for agitating paint cans, not rotating them. In other words, none of the cited references relate to rotating a can of spray paint. Accordingly, the logic of the Examiner is deemed inappropriate with respect to the rotary speed and to the combination of references.

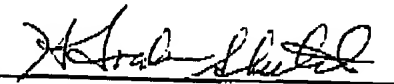
It is accordingly submitted that the present claims define over the prior art and are allowable. An indication of such allowability is requested.

Exhibit A contains the rewritten claims with appropriate underlining and bracketing.

Respectfully submitted,

E. RAY CARTER, Applicant

By



H. Gordon Shields,
Attorney of Record

HGS:jg
Enclosures
Phoenix, Arizona
(602) 995-0490

I hereby certify that this correspondence is being transmitted by
facsimile to: ASSISTANT COMMISSIONER FOR PATENTS
Washington D.C. 20231
Examiner: TONY G. SOOHOO
Group: 1723
Fax No: (703) 872-9310

On 2-18-03

H. GORDON SHIELDS, Reg. No. 23,099.


Signature

2-18-03
Date

EXHIBIT A

1. Spray paint can mixer apparatus comprising in combination:
a base;
a panel extending upwardly from the base;
means for holding a spray paint can for mixing; and
a motor connected to the panel and to the means for holding a spray paint can for rotating the means for holding a spray paint can for mixing the paint in the spray paint can at a relatively low RPM of between about thirty five and sixty RPM.

9. Apparatus for mixing paint in a spray paint can comprising in combination;
means for holding the can of spray paint;
a motor connected to the means for holding the spray paint can for rotating the spray paint can at a relatively low RPM of between about thirty five and sixty RPM; and
5 means for supporting the means for holding the spray paint can and the motor.

24. The apparatus of claim 9 in which the means for holding the spray paint can includes a holding element [means] secured to the motor and having a first area and a second area.

25. The apparatus of claim 24 in which the holding element [means] further includes a first arm and a second arm.

26. The apparatus of claim 24 in which the first and second arms of the holding element [means] are spring arms.

27. The apparatus of claim 24 in which the first and second arms are fixed, and the holding element [means] further includes a strap for securing the spray paint can to the first and second arms.

28. The apparatus of claim 24 in which the first and second arms are fixed, and the holding element [means] further includes a first magnet secured to the first arm and a second magnet secured to the second arm for securing the spray paint can to the first and second arms.